

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA

EARNEST LEE WALKER, A 9:10
Plaintiff,
VS.

ALABAMA DEPARTMENT OF CORRECTIONS, et al.,
ALABAMA DEPARTMENT OF PUBLIC SAFETY, et al.,
Defendants.

RECEIVED

2005 NOV 22

CASE NUMBER: 2:05cv1116-T
[TO BE SUPPLIED BY THE COURT CLERK]

MOTION FOR TEMPORARY RESTRAINING ORDER PURSUANT TO FEDERAL RULES CIVIL PROCEDURE
RULE 65 (b).

COMES NOW, the Plaintiff, Earnest Lee Walker, [hereinafter Plaintiff] by-way
of pro-se litigation in the above styled cause moves this Honorable Court to issue
a temporary restraining order against the Defendants prohibiting them from applying
the Community Notification provision of Alabama' Community Notification Act [hereinafter
Act] against him. In support thereof, the Plaintiff presents the following:

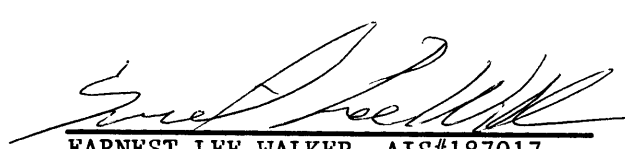
1. The Plaintiff is an inmate within the Alabama Department of Corrections [hereinafter ALDOC] serving an 18 months sentence for receiving stolen property in the first degree and will EOS [end of sentence] this sentence on December 12, 2005;
2. The Plaintiff has a 1995 misdemeanor sex offense conviction from Oakland, California and has been notified by ALDOC officials at Ventress Correctional Facility that the Director of Alabama Department of Public Safety [hereinafter DPS] has designated this misdemeanor offense as an offense to be considered as a criminal sex offense under Section 15-20-21(4)1. Thereby, making the Plaintiff subject to Section 15-20-22 thru 15-20-25 Code of Alabama, 1975;
3. The process by which State Official [Director of DPS] who is neither a lawyer nor a Judge that founded the Plaintiff offense from Oakland, California is to be covered by the Act lacked safeguards necessary to assure that the Act is not being applied to the Plaintiff in error[NO DUE PROCESS HEARING];
4. That applying the Act to the Plaintiff without providing him with a hearing when his good name, reputation, honor or integrity is at stake because of what the Government is doing to him violates his right to procedural due process that deprive him of a liberty interest in reputation as defined by the United States Supreme Court in Wisconsin v. Constantineau, 27 L ed 2d 515 at 519;
5. That the Plaintiff will suffer irreparable harm to his reputation, psyche and personal associations if the Community Notification provision of the Act is allowed to proceed. The Community Notification provision of the Act will subject the Plaintiff to Public opprobrium, stigmatization, shame, embarrassment, and threats of physical harm for which there is no adequate remedy of law as quoted in Doe v. Pryor, 61 F. SUPP. 2d 1224;
6. The Act meet both of the two [2] primary objective of criminal punishment; retribution and deterrence;

7. That the passing of the Act may not have been to punish and that retribution was not an intended purpose. However, the repercussions despite how they maybe justified are grave enough under the facts of this case to be considered punishment. See Artway v. Attorney General of State of New Jersey, 81 F. 3d 1235 at 1263 quoting Califorina Department of Corrections v. Morales, 131 L ed 2d 588.

RELIEF REQUESTED

Because the Act DOES NOT contain any provision whatsoever for notice and hearing-the Plaintiff's prayer for relief is that this Honorable Court will grant him a temporary restraining order against the Defendants-prohibiting them from applying Section 15-20-22 thru 15-20-25 Code of Alabama, 1975 against him pending final resolution of his Motion for a Preliminary Injunction and a subsequent 1983 prisoner Civil Right Complaint [If Neccessary].

Done this 22nd day of October 2005.


EARNEST LEE WALKER, AIS#187017
VENTRESS CORRECTIONAL FACILITY
POST OFFICE BOX 767
CLAYTON, ALABAMA 36016

SWORN TO AND SUBSCRIBED BEFORE ME THIS 22nd DAY OF October ^{CRA} ~~NOVEMBER~~ 2005

Carolyn R. Abercrombie
NOTARY PUBLIC SIGNATURE

My Commission Expires August 18, 2007
MY COMMISSION EXPIRES